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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,136	01/15/2004	Charles Perez	CONCEP-42627	7196

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EXAMINER

HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/760,136	PEREZ, CHARLES	
	Examiner	Art Unit	
	Victor K. Hwang	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 8, line 18, the recitation "32" presumably should be changed to --58--.

Appropriate correction is required.

Claim Objections

2. Claim 3 is objected to because of the following informalities: The recitation "the first and second positions" on line 3 is vague because there are more than one first and second positions previously recited. Presumably, the recitation on line 3 refers to the first retracted position and the second extended position.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by *Wilkinson* (US Pat. 5,674,157). *Wilkinson* '157 discloses a portable punching exercise device 10A comprising a base 12; a plurality of legs 14 attached to the base; and a padded punching bag 220 resiliently fixed to the base. Each leg includes a telescopic extension 15 selectively movable between a

first retracted position and a second extended position. Each extension includes a locking mechanism 16 for holding the extension in either of the first or second positions and for releasing the extension for moving between the first retracted position and the second extended position. Each leg includes a stabilizing foot 18 that can be pivotally attached to the leg (col. 2, lines 55-56). The legs 14 can be pivotally attached to the base 12 to be selectively pivotable between a first ground-engaging position and a second folded position (col. 6, lines 3-7). A resilient coil spring resilient support 228 extends between the base 12 and the punching bag 220. A post 230 is attached to an upper portion of the resilient support 228. The punching bag 220 includes an internal cavity 224 to telescopically accept the post 230 therein.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Wilkinson* (US Pat. 5,674,157) in view of *Wilkinson* (US Pat. 5,533,948). *Wilkinson*'157 has been discussed above, and such discussion is incorporated herein. *Wilkinson*'157 discloses the invention as claimed except for a locking mechanism for holding the pivotal legs in the first ground-engaging position and releasing the legs for moving between the first ground-engaging and second folded positions (claims 10, 11 and 17).

Wilkinson'948 discloses a base 12 comprising legs 100 that are selectively pivotable between a first ground-engaging position and a second folded position (Figs. 16 and 17). A locking mechanism 106,108 holds the pivotal legs 100 in the first ground-engaging position and releases the legs 100 for moving between the first ground-engaging position and second folded positions. The locking mechanism prevents collapse of the base 12 during use when the legs are in the first ground-engaging position. A collapse of the base 12 during use would be a safety hazard.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pivotal legs of *Wilkinson*'157 with the locking mechanism of *Wilkinson*'948, in order to prevent a safety hazard wherein the legs pivot and the base collapses during use.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Widger (US Pat. 410,475), *Hansen* (US Pat. 732,740), *Bonde* (US Pat. 1,578,633), *Moran* (US Pat. 3,329,428), *Curatola* (US Pat. 4,216,957), *Charles* (US Pat. D291,339), *Zlojutro* (US Pat. 5,554,088), *Tsai et al.* (US Pat. 5,618,039), *Boland* (US Pat. 5,921,896), *Breining* (US Pat. 6,896,630 B1), *I et al.* (SU 1644990 A) and *Ishkov* (SU 1762951 A1) disclose portable exercise devices comprising a base having plural legs that are or could be pivotally mounted to the base and a padded bag resiliently fixed to the base.

Woodsum, Jr. (US Pat. 3,268,223) discloses a device comprising a plurality of legs that are pivotally mounted to a base and teaches that the pivotal mounting permits the device to be collapsible for shipping, transportation and storage purposes.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.


The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
December 8, 2006



(JACKIE) TAN-UYEN HO
PRIMARY EXAMINER
12/8/06